

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA
CLARKSBURG**

MARKS CONSTRUCTION CO., INC.

a West Virginia Corporation, on behalf
of the Marks Construction Co., Inc. 401(k)

Profit Sharing Plan

and

**JAMES MARKS, KAREN MARKS,
ANGELA DAVIS, and RICHARD STRAIGHT,**

all individual participants thereunder,

Plaintiffs,

v.

Civil Action No. 1:05CV73
(Judge Frederick P. Stamp, Jr.)

**THE HUNTINGTON NATIONAL BANK and
SHARON HUGHES,**

Defendants.

**PLAINTIFFS' PETITION FOR
ATTORNEYS' FEES AND EXPENSES PURSUANT TO ERISA § 502(g)**

Plaintiffs, Marks Construction Company, Inc., on behalf of the Marks Construction 401(k) Profit Sharing Plan, as amended (hereinafter, the "Plan"), and James Marks, Karen Marks, Angela Davis, and Richard Straight, individual participants thereunder (hereinafter, collectively, with Marks Construction, the "Plaintiffs"), by counsel Michael J. Romano and Joseph A. Garofolo, hereby petition the Court for an Order granting Plaintiffs their attorneys' fees and expenses pursuant to ERISA § 502(g) in the amounts set forth in Plaintiffs' Memorandum in Support of Plaintiffs' Petition for Attorneys' Fees and Expenses Pursuant to ERISA § 502(g).

Plaintiffs accepted Defendants' Offer of Judgment Pursuant to Rule 68 (Doc. 206) on October 1, 2009. Defendants' Offer of Judgment contemplated that Plaintiffs would petition for

attorneys' fees and expenses pursuant to ERISA § 502(g) and for taxable costs pursuant to Fed. R. Civ. P. 54(d).

Plaintiffs' petition for attorneys' fees and expenses and separate bill of costs are timely pursuant to the schedule established by the Court in its 10/21/09 Order (Doc. 210).

This Petition is supported by Plaintiffs' Memorandum In Support of Plaintiffs' Petition for Attorneys' Fees and Expenses Pursuant to ERISA § 502(g).

Wherefore, Plaintiffs respectfully request that this Honorable Court grant them their attorneys' fees and expenses as more fully set forth in their Memorandum in Support filed on a date even herewith.

Respectfully Submitted,
Plaintiffs,
By Counsel,

/s/ Michael J. Romano
Michael J. Romano
W. Va. State Bar ID No. 6952
128 S. Second Street
Clarksburg, WV 26301
(304) 624-1100

/s/ Joseph A. Garofolo
Joseph A. Garofolo (admitted pro hac vice)
ERISA Law Partners, LLP
22 Battery Street, Suite 1000
San Francisco, CA 94111
(415) 981-8700

**IN THE UNITED STATES DISTRICT COURT FOR THE
NORTHERN DISTRICT OF WEST VIRGINIA CLARKSBURG**

MARKS CONSTRUCTION CO., INC.
a West Virginia Corporation, on behalf
of the Marks Construction Co., Inc. 401(k)
Profit Sharing Plan
and
JAMES MARKS, KAREN MARKS,
ANGELA DAVIS, and RICHARD STRAIGHT,
all individual participants thereunder,

Plaintiffs,

v.

Civil Action No. 1:05cv73

THE HUNTINGTON NATIONAL BANK and
SHARON HUGHES,

Defendants.

CERTIFICATE OF SERVICE

I, Michael J. Romano, do hereby certify that on the 20th day of November, 2009, I filed
“PLAINTIFFS’ PETITION FOR ATTORNEYS’ FEES AND EXPENSES PURSUANT TO ERISA
§ 502(g)” with this Certificate of Service with the Clerk of the Court using the CM/ECF system,
which will send notification of such filing to the following:

Sarah E. Hauptfuehrer, Esq.
(WV Bar #2049)
Steptoe & Johnson
Post Office Box 2190
Clarksburg, WV 26302
Facsimile No. 304-624-8183
Telephone No. 304-624-8100

John R. Callcott, Esq.
(WV Bar #9206)
Deva A. Solomon
(WV Bar #10843)
Steptoe & Johnson
United Center, Suite 400
PO Box 1616
Morgantown, WV 26505
Facsimile No. 304-598-8116
Telephone No. 304-598-8000

/s/ Michael J. Romano
Michael J. Romano, WV Bar #6952